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INTELLECTUAL PROPERTY LAW OFFICES

CARRIER, BLACKMAN & ASSOCIATES, P.C.

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JOSEPH P. CARRIER*

WILLIAM D. BLACKMAN*
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*Registered to practice
before the U.S. Patent and
Trademark Office

OFFICIAL

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FACSIMILE TRANSMISSION COVER SHEET

MAY 18 2004

DATE: May 18, 2004 OUR REF: OCA-184-A YOUR REF: 10/749,459
TO (COMPANY): USPTO
ATTN: PETITIONS BRANCH
FROM: W. Blackman, Reg No. 32,397
FAX NO. CALLED: 1-703-872-9306 NO. OF PAGES (Including this page) 22

We are also mailing you a confirmation copy of this material if this box is checked. ☐

If the received fax is illegible or incomplete, please call (248) 344-4422 for re-sending.

MESSAGE: ENCLOSED IS A PETITION FOR
AN EARLIER EFFECTIVE FILING DATE
for the subject application.
Please forward this petition to the
appropriate department.

CONFIDENTIALITY NOTICE

The information contained in this transmission is confidential. It is protected by the attorney-client, joint-defense, work-product, witness-statement and/or party-communication privileges. It is intended only for the use of the individual or entity named above. If the recipient or reader of this message is not the intended recipient named above, distribution, further transmittal, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address. Thank you.

Attorney Docket No. OCA-184-A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Matsuda et al.
Serial Number: 10/ 749,459
U.S. Filing Date: 30 December 2003
Group Art Unit: unknown
Examiner: unknown
Confirmation Number: unknown
Title: IGNITION DRIVE FOR BUS CONNECTION

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MAY 18 2004

OFFICIAL

PETITION FOR EARLIER EFFECTIVE FILING DATE UNDER 37 CFR 1.182 OR 1.183

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Petitioner, citing unusual circumstances, requests an effective filing date of 26 December 2003 for the subject application. The requested effective filing date is four days earlier than the date that the subject U.S. patent application was effectively filed with the U.S.P.T.O, but is justified due to unusual and unavoidable reasons as discussed herein.

STATEMENT OF RELEVANT FACTS:

1. Japanese patent application 2002-376637 (JP '637) was filed in the Japanese Patent Office on December 26, 2002 by Honda Giken Kogyo Kabushiki Kaisha (Honda), which acquired ownership of the invention disclosed in said application from the inventors (Matsuda et al.) who were/are employees of Honda.
2. Honda engaged as its agent – legal representative a Japanese patent attorney, Takeshi Ochiai, for the purpose of having a US patent application prepared and filed with the US Patent & Trademark Office (PTO) corresponding to JP '637 and claiming priority from JP '637 under 35 USC 119.
3. Mr. Ochiai prepared an English translation of JP '637 and on November 28, 2003, the sent a letter (via facsimile and express courier) requesting the U.S. law firm of Carrier, Blackman & Associates, P.C. (CBA) to revise the translation of JP '637 to a form appropriate for filing as a US patent application, and to return a revised copy of the draft application to him for a final review/revision prior to filing with the PTO. A copy of this November 28, 2003 letter is enclosed with this petition, and is marked as exhibit A.
4. On December 9, 2003, CBA shipped a revised draft of the subject patent application to Ochiai via facsimile and express courier. A copy of this letter to Ochiai is enclosed with this petition, and is marked as exhibit B.
5. On Friday December 19, 2003, Ochiai sent a final revised draft of the subject patent application back to CBA via facsimile and express courier, with explicit instructions to file the final revised draft with the PTO claiming priority based on JP '637 on or before December 26, 2003, again, explaining that December 26 was the priority due date and hence the deadline for securing priority under 35 USC 119. A copy of this request letter is enclosed with this petition, and is marked as Exhibit C.
6. Upon receipt of the December 19 letter, Joseph P. Carrier (Registration No. 31,748) attorney at CBA instructed CBA secretary Kathryn MacKenzic to prepare the documents

necessary for filing the application with the PTO (i.e., an application data sheet and a Utility Patent Application Transmittal (form PTO/SB/05)), and that the application should be promptly filed with the PTO via US Postal Service Express Mail (USPS) as soon as the original of the December 19 letter arrived at CBA to ensure that priority of JP '637 would be secured for the US patent application. An Affidavit of Joseph P. Carrier regarding the relevant facts is enclosed with this petition, and is marked as Exhibit D.

7. On the morning of Monday December 22, 2003, the original of the December 19 arrived at CBA, and was specifically received by Ms. MacKenzie who has the normal responsibility for receiving express courier deliveries at CBA. An Affidavit of Kathryn MacKenzie regarding the relevant facts is enclosed with this petition, and is marked as Exhibit E.

8. After receiving the original December 19 letter with enclosures on December 22, 2003, Ms. MacKenzie placed the letter and enclosures in a patent application file she had previously opened for the application, and then placed the file in a rack on her desk with the intention of filing the application with the PTO via USPS later that day to assure that priority from JP '637 could be obtained for the new application. See Exhibit E.

9. Despite her intention to file the application with the PTO on December 22, 2003, Ms. MacKenzie was unable to do so because of other matters she was attending to, including the filing of other new patent applications with the PTO. See Exhibit E.

10. Despite her previous intentions to timely file the application, Ms. MacKenzie subsequently forgot about the subject application for various reasons, including other matters she was working on and the fact that she was to be on vacation from December 24 – December 30, 2003. Moreover, before she left for vacation Ms MacKenzie failed to inform anyone else at CBA about the application which still needed to be filed by the December 26, 2003 priority deadline. See Exhibit E.

11. To compound matters, an error was made in CBA's docketing system regarding the proper date for docketing the filing of the subject application with the PTO, i.e., an erroneous docket entry had initially been indicating a US filing deadline date for the application was December 11, 2003, rather than December 26, 2003, and such entry was improperly deleted after the draft version of the revised application was sent to Ochiai on December 9, 2003, rather than being reset/re-entered for December 26, 2003 the proper filing deadline. See Exhibit F hereto, and the discussion of same in Exhibit D.

12. Due to the Christmas holidays, the office of CBA was closed for business on the afternoon of December 24 and on Thursday December 25, 2003.

13. On Friday December 26, 2004, CBA was open for business and filed one patent application with the PTO via USPS Express Mail. Further, CBA's docket system was checked for any other deadlines which needed to be met that day, but because the entry for filing the subject application had been improperly deleted, it was not then discovered that the subject application still needed to be filed.

14. On Tuesday, December 30, 2003, when Ms. MacKenzie returned from her vacation, it was discovered that the subject application had been overlooked, and had not been filed by December 26 as requested and required for securing priority of JP '637 under 35 USC 119. Consequently, the subject application was immediately dispatched to the USPTO, and filed using USPS Express Mail Certificate ET986049878US. The subject application received a filing date of December 30, 2003.

DISCUSSION

Applicant/assignee, Honda, gave CBA clear instructions to file the U.S. patent application on or before December 26, 2003 via its agent-attorney Ochiai. Ochiai corrected CBA's first revised draft and unequivocally approved the corrected draft for filing on December 19, 2003. Thus, Honda took all necessary actions to effectuate the filing of the U.S. application in time to be able to claim priority based on the Japanese parent application.

CBA had an approved draft of the application in their possession by December 19. CBA had notice of the priority date of December 26, 2003, but due to the holiday season, the vacation schedule, and inevitable human error, CBA failed to file the subject patent application by the due date. Instead, CBA filed the subject application on December 30.

Of course any error, such as the one now in question, is committed only because the person who committed the error overlooked something in front of him/her or failed to foresee what should have been foreseen. A human cannot help erring from time to time. It is true that a single error rarely causes serious consequences, and multiple errors have to be committed for serious consequences to occur, as is in the present matter. Those errors look obvious in hindsight, but people commit errors without any good reason, and in spite of all reasonable precautions taken to avoid same.

In order to promote justice and in the interest of fairness, because of the unusual circumstances and timing, and based on the applicant's timely, clear instructions to file the subject application with the PTO by the December 26, 2003 priority deadline, Petitioner requests that the Commissioner suspend the normal rules and grant the subject application an effective filing date of December 26, 2003.

The Commissioner is hereby authorized to charge \$130.00 for the Petition fee under 37 CFR 1.17(h), to charge any deficiency which may be required, and to credit any excess to Deposit Account 50-0744 in the name of Carrier, Blackman & Associates, P.C.

A duplicate copy of this sheet is enclosed.

Respectfully submitted,



William D. Blackman
Attorney for Applicant
Registration Number 32,397
(248) 344-4422

Carrier, Blackman & Associates
24101 Novi Road, Suite 100
Novi, Michigan 48375
May 18, 2004

CBA had an approved draft of the application in their possession by December 19. CBA had notice of the priority date of December 26, 2003, but due to the holiday season, the vacation schedule, and inevitable human error, CBA failed to file the subject patent application by the due date. Instead, CBA filed the subject application on December 30.

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In order to promote justice and in the interest of fairness, because of the unusual circumstances and timing, and based on the applicant's timely, clear instructions to file the subject application with the PTO by the December 26, 2003 priority deadline, Petitioner requests that the Commissioner suspend the normal rules and grant the subject application an effective filing date of December 26, 2003.

The Commissioner is hereby authorized to charge \$130.00 for the Petition fee under 37 CFR 1.17(h), to charge any deficiency which may be required, and to credit any excess to Deposit Account 50-0744 in the name of Carrier, Blackman & Associates, P.C.

A duplicate copy of this sheet is enclosed.

W.B.

Respectfully submitted,

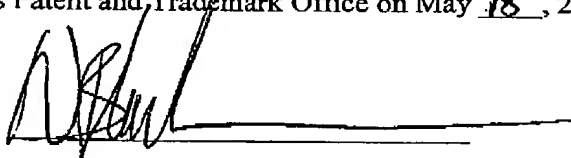


William D. Blackman
Attorney for Applicant
Registration Number 32,397
(248) 344-4422

Carrier, Blackman & Associates
24101 Novi Road, Suite 100
Novi, Michigan 48375
May 18, 2004

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted, via facsimile, to the Petitions Branch of the United States Patent and Trademark Office on May 18, 2004, at the number (703) 872-9306.

A handwritten signature in black ink, appearing to be 'N. P. H.', is written over a horizontal line.

Ochiai & Co.

Registered Patent Attorneys in Japan
for Patents, Utility Models, Trade Marks and Designs

TO Building
6-3, Taito 2-chome
Taito-ku, Tokyo 110-0016
Japan
Phone: (03) 5807-6727
Facsimile: (03) 5807-6728
e-mail: ochiaipatent.com

EXHIBIT

A

CARRIER, BLACKMAN & ASSOCIATES, P.C.
Michigan National Bank Building
24101 Novi Road, Suite 100
Novi, MI 48375-3248
U.S.A.

YOUR REF: OCA-184-A

OUR REF: 15-437

DATE: November 28, 2003

VIA FACSIMILE & COURIER

CONFIRMATION

Dear Sirs:

Re: New Patent Application in U.S.A.
Kazuo MATSUDA et al (Honda ref. H102-3561-US01)

RECEIVED

DEC - 1 2003

CARRIER, BLACKMAN &
ASSOCIATES

We hereby request you to file a new application for patent in your country in accordance with the following particulars.

Please acknowledge receipt of this letter by facsimile and be noted that we ask you to take all steps to keep this application in force and to pay the necessary fees to enable this application to be issued, in the absence of instructions to the contrary.

TITLE: IGNITION DEVICE FOR BUS CONNECTION

APPLICANT(S) and ASSIGNEE(S):

HONDA MOTOR CO., LTD., a corporation of Japan, of 1-1, Minami-Aoyama 2-chome, Minato-ku, Tokyo, Japan.

INVENTOR(S):

1. Kazuo MATSUDA 2. Kazutaka SAITO
of c/o Kabushiki Kaisha Honda Gijutsu Kenkyusho, 4-1, Chuo 1-chome, Wako-shi, Saitama, Japan, respectively; both citizens of Japan.

PRIORITY CLAIM(S): Japan No. 2002-376637 filed December 26, 2002.

continued.

2

DOCUMENTS ENCLOSED:

	enclosed	to follow
English text to be revised	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Draft drawings	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Clean drawings	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Priority document(s)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Copy of reference(s) of relevant art to be disclosed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Floppy disk	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>

We respectfully ask you to study and revise the enclosed English text into a proper U.S. form prior to the filing thereof. In your revision, please correct inappropriate terminology and add some appropriate claims, if necessary, but revised claims should not have a broader scope of patent protection than that of our draft claims. Please dispatch to our office by both courier and facsimile transmission, one copy of your revised text and your hand-amended work copy with the floppy disk in which the revised text is saved in a format of Microsoft Word 97 by December 12, 2003 of Tokyo time, in order that the clients may consider such revised text prior to its filing.

We regret that we could not give you more time for your revision. We will appreciate your high cooperation.

Very truly yours,
Ochiai & Co.



Takeshi Ochiai

INTELLECTUAL PROPERTY LAW OFFICES
CARRIER, BLACKMAN & ASSOCIATES, P.C.

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 SUITE 100
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JOSEPH P. CARRIER*
 WILLIAM BLACKMAN*
 JEFFREY B. LESPERANCE
 *Registered to practice before the
 U.S. Patent and Trademark Office

U. S. and Foreign Patents, Trademarks, Copyrights, Computer Law, Trade Secrets, Licensing, and Litigation

BY FACSIMILE AND EXPRESS COURIER

OCHIAI & CO
 TO BUILDING
 6-3 TAITO 2-CHOME
 TAITO-KU TOKYO 110-0016
 JAPAN



09 December 2003

ATTENTION: Takeshi Ochiai, Patent Attorney

RE: HONDA MOTOR CO., LTD.
 Proposed New U.S. Patent Application
 Based on Matsuda et al. Japanese Patent Application 2002-376637
 "IGNITION DEVICE FOR BUS CONNECTION"
 Our Ref. OCA-184-A; Your Ref. 15-437; Honda Ref. H102-3561-US01)

Postit	Days	# of pages
12/19	22	
To	Ochiai & Co	
From	J. Carrier	

Dear Ochiai-san:

We acknowledge receipt of and thank you for your order letter of 28 November 2003 entrusting the subject new patent application to our care. Pursuant to your instructions, we have now completed our revision of your draft of the patent application, and we enclose a copy of the revised application for your review.

Pursuant to your request, we are sending by facsimile and by courier our marked-up copy of the specification, and the clean revised copy.

Please review the enclosed material very carefully and, if it meets with your clients' approval, let us know. We have prepared several new claims, and per your request, we have endeavored to keep the same general claim scope as the claims you submitted to us.

If you (your client) feel any further changes or corrections are required, we will be glad to attend to same.

Again, we thank you for entrusting this important matter of your clients' to our care, and we look forward to working together with your office during the prosecution of the application.

With best regards,

Sincerely,

JPC/km
 enclosures

Joseph P. Carrier

Complete sections 1-5.

07867

05/18/2004 TUE 16:56 FAX 2483441096

013/023

'03年12月19日(金) 17時00分 宛先: CARRIER

発信: OCHIAI & CO.

R: 839

P. 01/18

Ochiai & Co.

Registered Patent Attorneys in Japan
for Patents, Utility Models, Trade Marks and Designs



TO Building
6-8, Taito 2-chome
Taito-ku, Tokyo 110-0016
JAPAN

Phone: (03)5807-6727
Facsimile: (03)5807-6728
e-mail: ochiaipatent.com

Dr. Joseph P. Carrier
CARRIER, BLACKMAN & ASSOCIATES, P.C.
Michigan National Bank Building
24101 Novi Road, Suite 100
Novi, MI 48375-3248
U.S.A.

YOUR REF: OCA-184-A

OUR REF: 15-437

DATE: December 19, 2003

VIA FACSIMILE & COURIER

Re: New Patent Application in U.S.A.
MATSUDA et al (Honda ref. H102-3561-US01)

Dear Dr. Carrier:

Thank you for your letter of December 9, 2003 enclosing your proposed revised text and a floppy disk.

Enclosed please find hand-amended text pages showing our amendments to the revised text, a clean copy of the text for filing, and formal drawings. Also enclosed is a floppy disk containing the text for filing which is saved in Microsoft Word 97.

Please file the application on or before December 26, 2003 which is the priority due date and send us two copies of the filed text and drawings with your filing report as usual.

Please acknowledge receipt of this letter.

FACSIMILE TRANSMISSION	
COVER LETTER	1
TEXT	10 + 2
DRAWINGS	5
REPLY INFO	
OTHERS	
TOTAL 18 sheets	
YOUR ACK. APPRECIATED!	

Very truly yours,
Ochiai & Co.



Takeshi Ochiai

RECEIVED

DEC 19 2003

CARRIER, BLACKMAN &
ASSOCIATES

Thank You

Encl.: as stated above